IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT APPEAL NO : 1331 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/09/2003 in WP NO : 9921 OF 2002 on the file of the High Court.)

Between:

Commissioner, Bhongir Municipality, Bhongir,

Nalgonda District.

..... APPELLANT

AND

1 Smt. Donkena Sattamma, Hussainabad Village,
Bhongir Mandal, Nalgonda District

2 District Collector, Nalgonda District, Nalgonda.

3 Revenue Divisional Officer, Bhongir, Nalgonda District
(R2 & R.3 are not necessary parties)

.....RESPONDENTS

For the Appellant: MR. R.TIMMA REDDY, Standing Counsel.

For Respondent No.1: MR. V.NARASIMHA GOUD, Advocate.

The Court made the following Judgment: (per Sri B. Sudershan Reddy, J)

That an extent of Ac.2.00 of land admittedly belonging to the respondent-writ petitioner in Sy.No.143/2 situated in Hussainabad Village, Bhongir Mandal, Nalgonda District was acquired for a public purpose of construction of a water tank. The appellant-Municipality after the acquisition raised constructions in the land so acquired. The case of the respondent-writ petitioner is that apart from the actual land that was acquired, an extent of 270 square yards has been encroached into by the appellant-Municipality as if it was also acquired. The fact remains that the respondent-writ petitioner received compensation only for an extent of Ac.2.00 but not with regard to the encroached area of 270 square yards.

The respondent-writ petitioner made several representations that resulted in issuance of the notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act') on 10.7.2001 proposing to acquire the said encroached area of 270 square yards. The same was followed by a declaration under Section 6 of the Act on 15.7.2001. The Land Acquisition Officer required the appellant-Municipality who is the beneficiary of the acquisition to deposit an amount of Rs.8,92,020/- towards the compensation payable in respect of the said land. The appellant-Municipality instead of depositing the said amount set up the plea that the Municipality passed resolutions on 26.11.1997 and 18.7.2002 rejecting the claim of the writ petitioner and expressing its decision to return the said land to the writ petitioner. The learned single Judge having noted the fact that even before the resolution dated 18.7.2002 proposing to return the land, notification under Section 4(1) of the Act had already been issued followed by publication of declaration under Section 6 of the Act and in such view of the matter, there was no other go for the appellant herein except to deposit the compensation as required by the Revenue Divisional Officer so as to be paid to the writ petitioner. The view taken by the learned single Judge, in our considered opinion, does not suffer from any infirmity whatsoever requiring our interference.

Sri R. Thimma Reddy, learned Standing Counsel for the Municipality very fairly stated that the Municipality has no funds at its disposal for depositing the same with the Revenue Divisional Officer and except for that reason, there are no other grounds to find fault with the decision of the learned single Judge.

It is unfortunate that the appellant-Municipality is playing a game of hide and seek with the writ petitioner resulting in deprivation of his property without any legitimate reason. The notification issued under Section 4(1) of the Act followed by declaration under Section 6 has become final and the possession of the land is already with the appellant-Municipality. The appellant-Municipality cannot avoid its responsibility to deposit the amount with the Land Acquisition Officer so that the amount in turn is paid to the writ petitioner. The appellant-Municipality is under legal and constitutional obligation to deposit the amount as required by the Land Acquisition Officer.

Having regard to the request made by the learned Standing Counsel for the appellant-Municipality, we consider it appropriate to grant further three months time from today for depositing the amount in terms of the directions of the learned single Judge. The Land Acquisition Officer upon such deposit by the appellant-Municipality shall pass award in accordance with law and pay the determined amount of compensation to the writ petitioner.

With the observations as above, the Writ Appeal shall stand dismissed without any order as to costs.

(B. Sudershan Reddy, J)

30..09..2004

(K.C. Bhanu, J)

ks

DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 Commissioner, Bhongir Municipality, Bhongir,
Nalgonda District.

2 District Collector, Nalgonda District, Nalgonda.

3 Revenue Divisional Officer, Bhongir, Nalgonda District.

4 Two CD copies.